

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 368 of 1990 (L)

## Versus

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C. Srivastava, VC)

The applicant who was Cameraman Grade-II in Doordarshan; having been appointed on 10.7.1972, he filed this application against the adverse remarks for the period 1.4.1989 to 31.3.1990 recorded in the character roll of the applicant vide order dated 27.7.90 and has prayed that the adverse portion of the impugned entry contained in enclosure-2 may be quashed and the respondents be directed to ensure proper arrangement of the applicant so that he may sit and perform his duties properly of the Camera-man Grade-I. Number of opportunities were given to the respondents, but they did not file written statement and ultimately an order was passed on 10.7.1992 that they will forfeit their right in case, the same will not be filed within time, even then it was not filed. The application for amendment was allowed. The learned counsel for the respondents who prayed before the Single Member on 28.7.1992 that the case may be referred before the Division Bench arguing the case on behalf of the respondents without there being any written statement.

2. By the amendment, the applicant prayed that

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the respondents be directed to pay withheld salary with effect from upto Feb. 1991 date with interest at the rate of 15% interest with all consequential benefit. Which action according to him was unconstitutional and without there being any legal right for the same and without following the procedure followed for withholding salary of an employee.

2. The applicant was promoted to the post of Cameraman Grade-I on 28.3.1985. According to him he was sent to Doordarshan Kendra Panaji in GOA and his work as Cameraman was highly appreciated by the authorities of the Doordarshan Kendra, Panaji, Goa. In the year 1989-90 all of sudden an adverse remark was recorded in the Applicant's character roll, and communicated to the applicant vide Memo dated 27.7.90. According to the applicant the said adverse remarks are recorded with a biased mind and or contradictory.

According to the applicant that for certain reasons the respondents No. 3 i.e. the present Director, Doordarshan, Lucknow has become highly prejudiced with the applicant and the impugned entry is the out come of this prejudice. The facts have been elaborated in the representation dated 27.8.90 which the applicant preferred against the impugned adverse entry. The next promotion to which the applicant could look forward is the post of Vedio Executive and having considered the length of service and unblemished service record, but its sudden adverse remarks stood in his way. He has pointed out that in the leave arrangement of Sri Kulbhushan, Vedio Executive one Sri Rajendra Kaul Cameraman Gr.-II was promoted to work as Vedio

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Executive ignoring the applicant who is Cameraman Grade-I. The representation against the adverse remarks which was filed by the applicant, was not decided even though much more than 6 months has been expired. The applicant has approached this tribunal against the order dated 27.7.1990. The applicant has approached against the same after the expiry of six months i.e. November, 1990. In the amendment application, it has been pointed out that his salary has also been withheld, even though he demanded the same. It has been pointed out that in order to humiliate the applicant one Sri Kulbhusan Vedio Executive had referred the matter to one Sri Rajendra Kaul Camera Man grade-II to submit report belonging to cameraman grade-I and the said Shri Rajendra Kaul submitted his report against the applicant. The said Sri Kulbhusan Vedio Executive called for explanation from the applicant regarding the absence for 217 days during the year 1990 and 139 days upto May, 1991. Even though there was no delegation of power in his favour. The applicant submitted his reply on 23.7.1991. On 25.7.1991 a warning letter was issued to the applicant in which it has been shown that the applicant was absent on certain dates and was asked to do his duty. 17 days were mentioned in the same and no application was given by applicant which indicates that he was not being allotted his work and he was becoming like irresponsible person. According to the applicant he has always been attending his duty, and the allegation of absence of his duty was not correct. There was no averments that any warning was given to the applicant or any point of time he was apprised that there was sudden discrimination in his work.

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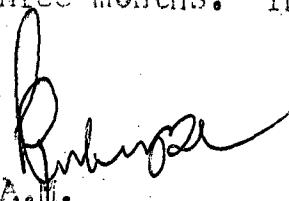
and this was all the most necessary when during the 16 years the applicant did not have any adverse entry and rather his work was appreciated. The adverse entry indicates that although his knowledge of work was good but the application of the officer of his related work was normal and he performed the duty under guidance only and lacks in understanding the T.V. working, and that he has not done any additional commendable work, though he handled the situation as a normal officer, and he can not take independent decision and is unable to weigh pros and cons of alternatives and his capacity in evaluation of performance of sub-ordinates is not good but under pressure he can not handle the situations with team members, and he is an Asthama patient and he can not take strenuous work, that he avoids taking major responsibility work as a Cameraman and Co-ordinator. Thus, practically in respect of every column the adverse remarks were given.

4. It seems that the respondents have deliberately avoided not filing the counter-affidavit. The adverse remarks indicates that there may be some contradiction in the adverse remarks. But before passing the adverse remarks, the applicant should have been appraised for any short coming in down fall in his work; at no point of time any warning was given. The respondents have not explained as to how all of sudden the applicant developed these flaws. As the circumstances for giving the adverse remarks were not given, the adverse remarks are not to be followed. Accordingly, the same are expunged. The salary is concerned, the application in this behalf is allowed. As far as the L

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respondents will pay the entire salary to the applicant of which can be withheld only in accordance with law by following the procedure which is prescribed in the matter of Government of India servants. In case the question of absentism if any, has not been decided the salary can be not withheld and accordingly, the respondents will pay in case no proceedings has been taken and no decision in accordance with law has been taken. The respondents will pay the salary which has been withheld within a period of two months from the date of the communication of this order, but in case, they decide to hold an enquiry in the matter, that part of the salary which can not be withheld and pay the balance after concluding the enquiry, if any, which is to be concluded within a period of three months. There is no order as to cost.

  
A.M.

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V.C.

Lucknow Dated 22.10.1992.

(RKA)